

Attachment A – Processing Sensitive FOIA Requests in the Field

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This guidance summarizes the procedures for the handling of sensitive FOIA requests received by the field offices. The parameters for determining whether a FOIA request is sensitive are found in the Deputy Secretary's November, 30 2004 memorandum ([available here](#)). As set forth in the memorandum, a FOIA request is considered sensitive if the subject matter involves one of the following:

- National significance, serious injury, or loss of life.
- Information that could subject HUD to substantial litigation.
- Current or former senior HUD management officials.
- Questions about HUD's policies or the performance of departmental responsibilities.

While it may be difficult in specific circumstances to assess when a request is of national significance, raises questions about HUD's policies, or satisfies some of the other articulated criteria for sensitivity detailed in the Deputy Secretary's memorandum, field FOIA liaisons should use their best judgment. Field personnel are often familiar with current local and historical issues, and are in the best position to assess the sensitivity of the release of documents maintained in the field offices. If uncertain about whether a request is sensitive, FOIA liaisons can consult with local program representatives or Office of Public Affairs personnel. As always, the FOIA Division in the Office of Litigation is available for consultation by telephone, and can assist liaisons in evaluating the sensitivity of particular requests.

Once a request has been identified as sensitive, both **notice** and **concurrence** requirements are triggered.

Upon receipt of a sensitive FOIA, **NOTIFY**:

- your Regional Director;
- your Regional Field FOIA Liaison; and
- the Headquarters FOIA Division in the Office of Litigation.

If the sensitive FOIA is also a media request, **also NOTIFY**:

- your Regional Public Affairs Officer.

Required notices should be faxed to ensure timely receipt, unless other arrangements are made with the receiving office. When faxing the sensitive FOIA request to the Headquarters FOIA office in the Office of Litigation at (202) 401-7901, you should include a completed Sensitive FOIA Form ([found here](#)), which provides Headquarters with an explanation as to why the request is sensitive (it may not be apparent from the face of the request) as well as all information necessary for senior management to evaluate the impact of disclosure.

After completing all required notification procedures, the FOIA Liaison should continue with the processing of the request in accordance with standard search and document review procedures. Field program offices should be providing the field FOIA Liaison with a recommendation as to releasability or redaction of the responsive documents, as appropriate. Upon receipt of the responsive documents and recommendation from the program office, the Field FOIA Liaison should prepare a proposed response letter to the requester.

Once the draft response letter has been prepared, you must obtain **concurrences** before sending out a sensitive FOIA response. You must obtain concurrences from the following offices before dispatching the FOIA response (whether it is a full grant, partial grant or full denial):

- the Headquarters FOIA Division of the Office of Litigation
- the Regional Director's office
- the head of the relevant program office in Headquarters

<http://hudatwork.hud.gov/po/c/processing-sensitive-requests.cfm>

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The documents and proposed response letter should be sent **express mail** to the relevant Regional Director (or his/her designee) for review and concurrence. The Field FOIA Liaison should also **email** the proposed response letter to the field program office, which in turn will forward it to the appropriate Headquarters program office for review and concurrence. The FOIA Division in Headquarters must also receive an **email** with the proposed response letter for review and concurrence.

Once all of the concurrences are received, the Field FOIA Liaison can send out the final response. In the event of a non-concurrence to the proposed response to the sensitive FOIA request, the Field FOIA Liaison must arrange a conference call with the FOIA Division in Headquarters and the office(s) not approving of the response in order to resolve the outstanding issues and arrive at a consensus as to the appropriate response to the sensitive FOIA request.

The process for handling sensitive FOIA requests is further described in more detail [here](#), and a useful chart outlining the necessary concurrences for field sensitive FOIA requests is located [here](#).

Please contact the FOIA Division if you have questions about field sensitive FOIA requests and procedures.

Content current as of April 7, 2008


Attachment B – November 5, 2002, Memorandum for All Field FOIA LiaisonsDEPARTMENT OF JUSTICE
OFFICE OF THE GENERAL COUNSEL

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MEMORANDUM FOR ALL FIELD FOIA LIAISONS

FROM


RICHARD A. HAUSER, GENERAL COUNSEL, C

SUBJECT

PROTOCOL FOR FIELD FOIA REQUESTS FROM THE MEDIA

This is to remind you of the protocol for processing Freedom of Information Act (FOIA) requests from members of the news media. When a FOIA request is received from a media requester, a copy of that request should be provided to your regional Public Affairs Officer. The Public Affairs Officer should also be included on the clearance sheet for substantive responses in which access to records is granted or denied. Additionally, the Public Affairs Officer should be provided with a copy of any response to a media requester after it is issued.

The notification and clearance process is for information purposes only, since the disclosure or withholding of agency records is based upon the legal requirements of the Freedom of Information Act. A similar protocol has been in place in Headquarters for more than two years and has provided effective communication between the FOIA Division and Public Affairs.

If you have any questions or need additional information, please contact Carole Wilson, Associate General Counsel for Litigation, or Marylea Byrd, Assistant General Counsel for FOIA.

cc: Diane Tomb
Regional Public Affairs Officers